

SPECIAL REQUIREMENTS FOR CERTAIN USES**§ 153.165 PLANNED MULTI-FAMILY DEVELOPMENT.**

Planned multi-family development is a group of two or more multi-family buildings or three or more duplexes established on a single tract of land. It has a unified design of buildings and a coordinated organization of open spaces and service areas.

(A) A planned multi-family development may be established in multi-family districts and office districts in accordance with the development requirements set out in Table I at the end of this section.

(B) Every residential building in a planned multi-family development must be separated, on every side, from any other building within the building group by a distance of at least 35 feet in all districts.

(C) All portions of every residential building must be located within 400 feet of a public street or private street that furnishes direct access to it. Determination of whether interior roads will be public streets or private streets, or a combination of public streets and private streets, will be made by the Board of Commissioners with recommendations from the Planning Board. The town may request sufficient information from the applicant, other town, county and/or state departments to assist in making a decision. In reaching that decision, consideration should be given to the following: the adopted major thoroughfare plan; circulation needs and existing and proposed neighborhood streets; the relationship of the site to adjoining lands; the size and shape of the tract to be developed; the number of dwelling units to be constructed ultimately on the tract and on adjoining lands; and anticipated traffic volumes. The determination of whether interior roads will be public or private will consider only the minimum needs of the public for public streets and will recognize the privacy, security, and safety advantages of private streets. Where public streets are required, the Planning Board will provide in writing the reason for that requirement, upon request of the developer.

(D) Private streets are interior circulation roads designed and constructed to carry vehicular traffic from public streets within or adjoining the site to parking and service areas. Design and arrangement of private streets will be subject to review and approval.

(1) Private streets must be a minimum width of 30 feet, exclusive of parking bay areas and have a minimum pavement width of 20 feet, measured from edge of pavement to edge of pavement, for two way traffic and a minimum width of ten feet for one-way traffic. Additional widths will be required where parallel parking is to be provided.

(2) Concrete curb will be required, unless the Board of Commissioners determines that curbs are not needed when private streets cross open areas.

(3) Angled parking areas directly adjoining private streets will be permitted on one side of the street. These parking areas may be alternated from one side of the street to the other. The combined length of those parking areas may not exceed 50% of the length of the adjoining roadway. All other angled parking areas must be clearly separated from the private street by at least a barrier island.

(4) Each building group must be served by at least one public street or private street that has a longitudinal grade not greater than 10%.

(5) Permanent street names will be assigned to each private street in the same manner as public streets. Street names as approved must be posted. The assignment of building identification numbers will utilize the approved private street names.

(E) The parking and circulation plan must assure safe, quick, and convenient access and circulation for fire fighting equipment, refuse collection, and service and delivery vehicles under full conditions.

(1) The plan must indicate proposed locations and service connections for public and private fire hydrants and refuse collection points. The County Fire Marshal must find that private fire hydrants deliver an adequate water supply equivalent to the minimum supply required for public hydrants.

(2) Private streets must be no closer than 20 feet to an apartment building. However, private streets may be within five feet of purely service sides of a building, of building ends which do not provide access to the building, and of the ends of duplex units. A determination of a service side will consider refuse collection points, the location of exterior mechanical equipment, building entrance and exit points, and building design and arrangement.

(3) Unenclosed surface parking areas must be no closer than 15 feet to an apartment building. However, parking areas may be within five feet of purely service sides of a building, of building ends which do not provide access to the building, and of the ends of duplex units. A determination of a service side will be based on the same information as that required in division (E)(2) of this section.

(4) In order to determine the efficiency, adequacy, and safety of the proposed parking and circulation plan and facilities, the Planning Board will coordinate its review with the County Fire Marshal and the County Engineering Department and the Town's Department of Public Works.

(F) Site planning in proposed developments must provide protection of the development from adverse surrounding influences and protection of surrounding areas from adverse influences within the development. The site plan must be designed giving adequate notice to the following considerations: the size and shape of the tract; the topography and necessary grading; the reasonable preservation of the natural features of the land and vegetation; the size and relationship of the buildings; and the character of relationship to adjoining properties. Building arrangement should discourage the creation of long alleyways between the rears of buildings and should discourage the orientation of the front entrance of a residential building toward the rear entrance of another residential building. Consideration should be given to the location and arrangement of recreation and parking areas, the nature and extent of screening, the design of and utilization of streets and open spaces.

(G) Adequate and suitable recreation areas designed and intended for small children must be provided based on the number of bedrooms per apartment unit as established below:

<i>Number of Bedrooms per Apartment Unit</i>	<i>Minimum Recreation Space per Unit (Square Feet)</i>
1	0
2	25
3	50
4 or more	100

(1) These areas should be reasonably located to assure safe and convenient access and maximum usability. The areas must have a minimum dimension of 30 feet and a minimum area of 900 square feet. Projects which would have to provide less than 900 square feet of recreation area according to the table are exempt from this requirement.

(2) Recreation areas so established will be credited as usable open space.

(H) No building permits for construction in a planned multi-family development will be issued until a preliminary site plan and final plat (when required) have been approved in accordance with the requirements of this subdivision ordinance or of this section.

('72 Code, § 24-3101) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

Table I: Planned Multi-Family Development Requirements		
	R-12 MF 0-9	R-15 MF 0-15
Minimum lot size, first unit (square feet)	12,000	15,000
Each additional unit	3,000	3,500
Minimum setback (feet)	35	40
Minimum rear and side yard at project boundary (except as required below)	25	30
Minimum side yard where adjoining land is residentially zoned and developed with single-family detached units or is zoned for single-family units**	25	30
Minimum rear yard where adjoining land is residentially zoned and developed with single-family detached units or is zoned for single-family units**	40	45
Minimum unobstructed open space	60%	65%
Minimum usable open space*	20	20
Maximum height	35	35
* To meet usable open space requirement: No dimension may be less than 20 feet; no more than 10% of the required usable open space may be covered with buildings designed for recreation use; the area must be used for amenity or recreational purposes; and the area must clearly be an integral part of the overall development design.		
** Side and rear yard determination will be based on the orientation of each proposed building to the adjoining project property line. If the angle formed by the property line and the front or rear facade of the building is greater than 45 degrees the area between the building and the property line will be treated as a side yard.		

§ 153.166 CUSTOMARY HOME OCCUPATIONS.

Customary home occupations may be established in a dwelling in single-family or multi-family residential districts, the R-MH district, or office districts. In office districts, these uses are subject to all requirements of that district.

(A) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.

(B) Use of the dwelling for this purpose must be limited to 25% of one floor of the principal building or 50% of one floor of an accessory building.

(C) No outside storage may be used in connection with the home occupation.

(D) Machinery that causes noises or other interference in radio or television reception is prohibited. Additionally, no equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot, in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units.

(E) Internal or external alterations inconsistent with the residential use of the building will not be permitted.

(F) Only residents of the dwelling may be engaged in the home occupation.

(G) No display of products may be visible from the street.

(H) Permitted customary home occupations include, but are not limited to: home based businesses such as offices for professionals such as architects, brokers, counselors, clergy, dentists, doctors, cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, landscape design, surveyors, cleaning services, alterations, certified massage therapists, travel agents, telecommuting, gift baskets, flower arrangements, home craft businesses (such as artists, quilters, sculptors, musicians, weavers, jewelry making, photographers), instructional services (such as teaching music, dance, art, yoga, tutoring) and other similar uses.

(I) Vehicles used primarily as passenger vehicles only will be permitted in connection with the conduct of the customary home occupation.

(J) Services provided for any of the permitted home occupations must be limited to no more than two clients at a time. In the event of a time overlap between scheduled appointments, additional clients may be permitted on the premises.

(K) Prohibited customary home occupations include, but are not limited to: caterers, food vendors, equipment and vehicle repair shops, appliance repair shops, small mechanical repair shops, barber shops, beauty shops, kennels, commercial bakeries, veterinarian clinics, funeral homes, cabinetry making, welding, trucking, adult oriented businesses, warehousing, on-site vehicular sales, and other similar uses.

('72 Code, § 3102) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) Ord No. 1532; passed 1-8-07) Penalty, see § 153.999

§ 153.167 RURAL HOME OCCUPATIONS.

(A) Section 153.063, the Rural District, contains a list of uses which are permitted under certain conditions in the Rural District. Some of these uses are permitted on a limited scale as rural home occupations on a lot which contains a residence. The following provisions will govern the establishment of any such use.

(B) A building which contains a rural home occupation must be located to the rear of the established setback. It must be located at least 100 feet from any existing residences on adjacent tracts of land and at least 50 feet from any exterior property line where a lot line adjoins a lot in the Rural District or any residential district.

(C) In the case where a lot line adjoins a lot in districts other than the Rural District or any residential district, the minimum required yard (rear, side, or front) for any building containing a rural home occupation will be the same as that required for single-family dwellings located in the Rural

District.

(D) A rural home occupation must be contained entirely within the building with a maximum floor area of 2,000 square feet devoted to the use. There may be no outside storage of materials or equipment.

(E) One rural home occupation will be permitted per lot.

(F) The operator of the rural home occupation must reside on the same parcel of land where the rural home occupation is located.

(G) No more than three people who do not reside on the premises may be employed by a rural home occupation.

(H) The rural home occupation must not create smoke, odors, dust, or noise which would cause health hazard or nuisance to surrounding property.

('72 Code, § 3103) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

§ 153.168 COMMERCIAL USES IN MULTI-FAMILY AND OFFICE BUILDINGS.

Limited commercial uses may be established in conjunction with certain multi-family and office buildings in any multi-family residential, distributive business, high rise business or office districts. The following requirements will apply in addition to any other applicable requirements of this chapter for the districts in which those uses are located.

(A) Allowable commercial uses may be located only in a multi-family building having a minimum of 50 dwelling units or an office building having a minimum of 30,000 square feet of office space.

(B) Gross floor area used for commercial purposes will be limited to 25 square feet per apartment in a multi-family building and 10% of the gross floor area used for office or laboratory purposes in an office building.

(C) Public entry to commercial facilities must be from interior of building with no direct public entrance from street or outside of building permitted.

(D) No merchandise or merchandise display window may be visible from outside the building within multi-family, distributive business or office districts.

(E) No business or identification sign pertaining to commercial uses may be visible from outside the building within multi-family, distributive business or office districts.

(F) Permitted commercial uses will be limited to the following. In multi-family districts: beauty shops, barber shops, laundry or dry cleaning pick-up stations, restaurants,

snack bars, cafeterias, and sundries shops. In office districts: all those uses allowed in multi-family districts, plus flower shops and the dispersing of drugs. In business districts; all these uses allowed in office districts, plus lounges. ('72 Code, § 3104) (Am. Ord. 775, passed 4-12-93; Am. Ord. 877, passed 5-9-94)

§ 153.169 BED AND BREAKFAST ESTABLISHMENTS.

(A) Bed and Breakfast Guest Homes are permitted in single- and multi-family, office, B-1 and HUC districts. Bed and Breakfast Inns are allowed in all the above districts except not in single-family residential.

(B) Bed and Breakfast Guest Homes in residential districts must meet all lot size, setback, yard, height and open space requirements of the district in which they are located. The principal use of the structure is the single-family dwelling, and the Bed and Breakfast Guest Home is a secondary function within the principal house structure. For this reason, the facility must be owner-occupied and managed, with no employees other than resident family members permitted. No meals other than breakfast for overnight guests only shall be provided and no group functions, such as wedding receptions or banquets shall be allowed. New additions to the structure in order to accommodate more guest rooms are not permitted. No substantial modifications to the exterior of the structure shall be allowed, except for repair and maintenance. Exterior alterations required by North Carolina Building Code, such as fire escapes, handicap ramps, doorways, etc., shall be in keeping with the exterior architectural character of the structure and the residential character of the surrounding neighborhood. No separate exterior doorways for individual guest rooms shall be permitted unless the separate doorway was part of the original architecture of the house.

(C) Bed and Breakfast Inns in any permitted district shall be the permanent residence of the manager of the establishment, and no more than one non-resident employee is permitted in association with the inn. No meals other than breakfast for overnight guests only shall be provided. Exterior alterations required by North Carolina Building Code, such as fire escapes, handicap ramps, doorways, etc., shall be in keeping with the exterior architectural character of the structure. Guest rooms may be located within the principal house structure or in accessory structures already existing on the property. Additions to increase the number of available guest rooms may only be made to the principal house structure.

(D) A parking plan must be provided for any Bed and Breakfast establishment showing minimum parking spaces for the permanent dwelling(s), plus one additional parking space per guest room. The required parking spaces shall not be between the established front setback (front of the house) and the street, or within five feet on an interior side or rear

yard lot line or ten feet of a street side lot line on a corner lot. Fence, wall or landscape screening as described in § 153.075(H) shall be provided when the adjacent property is residential zoned or used. Parking for guests shall be accessed by the same driveway as that serving the permanent residence.

(E) Individual guest rooms in any Bed and Breakfast establishment shall not be equipped with cooking facilities.

(F) The manager of any Bed and Breakfast establishment shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.

(G) In office districts, B-1, and HUC, social events such as weddings, receptions, luncheons, or any other such function whether or not the establishment receives payment for the use of the facility, and which is not a function for the personal use of the resident manager, may be allowed if sufficient off-street or satellite parking is provided and documented. Off-site parking, as described in § 153.120, may be used. The number of functions shall not exceed 24 events a year nor more than four events in a month.

(H) In office districts, B-1, and HUC, related commercial uses such as a tea room or antique or gift shop may be located on the same lot as the Bed and Breakfast Inn. The area available for such a related commercial use shall be limited to 10% of the floor area of the principal structure, but does not need to be within the principal structure. These related commercial uses may be open to the general public when additional on-site parking spaces, located behind the established front setback, are provided for this use, as required in § 153.117. ('72 Code, § 3105) (Ord. 477, passed 2-8-88; Am. Ord. 885, passed 3-18-96) Penalty, see § 153.999

§ 153.170 UNIT OWNERSHIP (CONDOMINIUM) DEVELOPMENT.

(A) Condominium structures must conform to normal use and development requirements of this chapter for the district within which the structure is located.

(B) Unit ownership may be created by an owner or the co-owner of a building by an express declaration of the intention to submit that property to the provisions of the "Unit Ownership Act of North Carolina." The declaration must be prepared in strict compliance with the Unit Ownership Act, reviewed and approved by the Planning Board, and recorded in the office of the County Register of Deeds. ('72 Code, § 3106) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999

§ 153.171 DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS.

In planned unit and cluster developments and in subdivisions involving one-family attached dwellings, the following supplementary requirements will apply.

(A) *Commercial and office facilities.* Commercial and office facilities, when permitted in a planned unit development, must be developed in accordance with conventional requirements for B-1 District. In addition, they will be subject to the following requirements.

(1) The size of the proposed commercial or office areas must be specified, and the areas must be planned as an integral part of the planned unit development.

(2) Proposed uses should be those needed by and gauged primarily for the convenience and service of residents of the planned unit development.

(3) Commercial areas are permitted at a maximum ratio of one acre of commercial area per 100 dwelling units for the first 100 units constructed and at increments of ½-acre per 50 dwelling units above 100 units.

(4) These areas should be located and designed to provide direct access to a primary, secondary, or collector street without creating traffic hazards or congestion on other streets.

(5) The layout of parking areas, service areas, entrances, exits, yards, courts and landscaping, control of signs, lighting, noise, or other potentially adverse influences should be designed to protect the residential character within and adjacent to the planned unit development.

(6) The location, construction, manner of timing of operation, signs, lighting, parking arrangements, or other characteristics of commercial or office uses should not have adverse effects on residential uses within or adjoining the district or create traffic congestion or hazards to vehicular traffic.

(7) No part of any building designed or intended to be used for commercial purposes may be constructed prior to the construction of at least 50% of the dwelling units proposed in the plan or construction of 300 dwelling units, whichever is smaller.

(B) *Nonresidential uses.* Nonresidential uses of a religious, educational, or recreational nature will be presumed to be designed or intended primarily for the use of the residents of the proposed development. The burden will be on the Planning Board or on the objecting parties appearing at the public hearing to show beyond a reasonable doubt that those uses will primarily serve persons residing outside the development. The burden will be on the developer to show that nonresidential uses of a commercial character are intended to serve principally the residents of the proposed development.

(C) *Site planning; external relationships.* Site planning in the proposed development should provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development. Consideration will be given to the location of uses, screening, setbacks, and street design and arrangement in the evaluation of the relationship of the development to its surrounding areas.

(D) *Site planning; internal relationships.*

(1) *Service and emergency access.* Access and circulation must adequately provide for fire-fighting equipment, service deliveries, and refuse collection.

(2) *Underground utilities.* Planned unit developments and cluster developments must provide for underground installation of utilities, including telephone and power in both public and private rights-of-way, except when extreme conditions of underlying rock or other conditions make this requirement unreasonable. Provisions should be made for acceptable design and construction of storm sewer facilities, including grading, gutters, piping, and treatment of turf to handle storm waters, prevent erosion, and formation of dust.

(3) *Ways for pedestrians; uses by service vehicles.* Walkways should form a logical, safe, and convenient system for pedestrian access to all dwelling units, project facilities, and principal off-site pedestrian destinations. Walkways to be used by substantial numbers of children and play areas or routes to schools or other destinations should be located and safeguarded to minimize contacts with normal automotive traffic. Street crossings should be held to a minimum. Appropriately located, designed, and constructed walkways may be combined with other easements and used by emergency or service vehicles but may not be used by other automotive traffic. Use of pedestrian underpasses and overpasses is encouraged.

(4) *Common open space.* **COMMON OPEN SPACE** means a parcel or parcels of land or an area of water or a combination of both land and water designed and intended for the use and enjoyment of residents of the development or for the general public. It may not include streets or off-street parking areas. Common open space should be substantially free of structures but may contain improvements that are in the plan as finally approved and are appropriate for the benefit of residents.

(a) A minimum total area of 10% of the gross residential area must be set aside as common open space in a planned unit development or a cluster development. Of this 10%, a maximum of one-half may be areas covered by water. Common open space must be provided in one-family attached dwelling developments in accordance with district requirements.

(b) A maximum of 5% of the area

designated to be common open space may be converted by structures clearly accessory to the recreational use of the area.

(c) The location, shape, and character of the common open space must be suitable for the proposed development.

(d) Common open space may be used only for amenity or recreational (active or passive) purposes of a non-profit nature. However, this does not preclude a monetary charge for recreational purposes, such as a golf course, when these uses are primarily for the residents of the planned unit development. The uses authorized for the common open space must be appropriate to the scale and character of the development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

(e) Common open space must be suitably improved for its intended use. But common open space containing natural features clearly worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the area having regard for its topography and unimproved condition.

(f) The development schedule which is part of the development plan must coordinate the provision and improvement of the common open space and the construction of residential dwellings in the planned unit development so that at no time will the actual dwelling density per acre exceed permitted overall dwelling density per acre.

(5) *Conveyance and maintenance of common open space.* All land shown on the final plan as common open space must be conveyed under one of the following options.

(a) It may be conveyed to the town which must agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it. Common open space to be conveyed in this manner must be acceptable relative to size, shape, location, and improvements. The applicant must show that the acceptance of the facilities would be of benefit to the general public.

(b) It may be conveyed to the trustees provided in an instrument establishing an association of homeowners. The common open space must be conveyed to the trustees subject to covenants and easements to be approved by the Planning Board. These covenants and easements restrict the common open space to the uses specified on the final plan and provides for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose. If the open space is deeded to a homeowner's association, the developer must file

a declaration of covenants and restrictions that will govern the association to be submitted with the application for preliminary approval. The provisions must include but are not limited to the following items.

1. The homeowner's association must be established before the homes are sold.

2. Membership must be mandatory for each home buyer and any successive buyer.

3. The homeowner's association will be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.

4. Any sums levied by the association that remain unpaid will become a lien on the individual property.

5. The homeowner's association will be able to adjust the assessment to meet changing needs. ('72 Code, § 3107) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999

§ 153.172 COMMUNICATIONS TOWERS AND ANTENNAS

(A) PURPOSE. The purpose of this section is:
To meet requirements of Telecommunications Act of 1996;

To direct the location of tall communications towers where they have been determined to be least disruptive of existing or developing land use character, specifically to commercial road corridors;

To protect residential areas and land uses from potential adverse impacts of communications towers;

To preserve the low building profile and character of the downtown;

To protect land values of adjacent and nearby properties;

To minimize adverse visual impacts of communications towers through careful design, siting, landscape screening, and innovative camouflaging techniques;

To accommodate the growing need for communications towers;

To promote and encourage shared use/colocation of existing and new communications towers as a primary option rather than construction of additional single-use towers;

To encourage the use of concealment techniques instead of towers in providing support and height for antennas;

To protect public safety as it may be impacted by construction, wind damage, electric shock, unauthorized access to facilities, structural damage on non-tower supporting structures, monitoring visit traffic, lighting for visibility to hospital, traffic, police, or other helicopter or

private aircraft, and related considerations.

With or without towers, a communications antenna is considered a principal use or a secondary principal use on any site, except when it is either incidental to a business use on the same lot and used by that business for its operational communications, or is on the same lot as a phone or cable consumer outlet or operations center. They are permitted as a secondary principal use in residential districts where a permitted non-residential principal use exists.

(B) *Residential Districts.* Antennas may be located in stealth applications on supporting structures which are or will be the principal use or a permitted accessory structure to the principal use of the site in any residential or rural district, and shall not be more than 80 feet in overall height (antenna and supporting structure). Where existing structures (as of the date of adoption of this subsection) exceed 80 feet in height (such as electric transmission towers) these structures may also be used for antenna locations. When an existing stealth structure is used, communications antennas may not increase the stealth structure's height by more than 20 feet per antenna, up to 40 feet additional in height, and such location shall not require the antenna to be lighted.

(C) *Non-Residential Districts.* Antennas may be located on towers or other supporting structures in the R/I district (except as given in table below), and all office, business and industrial districts except the HUC and AU districts up to the overall heights listed below:

	Adjacent to any res. or rural zone		Adjacent to all non-res. zones
	Non-stealth	Stealth	1 user/2 users/3 users Trunked Public Safety
R/I	Not permitted	80'*	80'*/100'/120'/not permitted
0-9, 0-15	50'	80'*	100'*/120'/140'/not permitted
B-1, BD	50'	80'*	120'*/140'/160'/not permitted
B-2	50'	80'*	160'*/180'/200'/not permitted
B-3, I-1	60'	80'*	180'*/200'/220'/not permitted'
I-2	60'	80'*	200'*/220'/240'/400' **

(Ord. 919, passed 4-28-97)

* Where there are existing non-residential structures that exceed the above-given height limit (such as electric transmission towers), then these structures may also be used for antenna locations. These limits may be increased by 20 feet for each additional user collocating on the stealth structure up to an additional 40 feet, and such location will not require the antenna to be lighted.

** (1) There are no residential or rural zones within 1,000' radius of the proposed tower site.

(2) The owner/developer and/or lessee of the proposed tower must possess a license (see Form FCC 574 or replacement Form FCC 600), to operate a Trunked Public Safety and Special Emergency Radio Services system in accordance with FCC Regulations Part 90, Subpart B and C, 90.15 and 90.33 respectively, and such tower will be used by licensee for the operation of a Trunked Public Safety and Special Emergency Radio Services system.

(3) Location of non Public Safety system antennas for colicators shall not be restricted to 240' or less, but such colocation antennas shall be located below the principal Public Safety system antennas.

(4) The proposed tower is designed to allow colocation by at least two users and applicant for the tower provides written documentation that a colocating provider has/can lease space.

(D) *Spacing.* Towers shall be spaced from each other by a minimum radius as given below:

tower under 80' to tower under 80'	1,200'
tower under 200' to tower under 200'	1,800'
tower over 200' to tower under 200'	2,200'
tower under 200' to tower over 200'	2,200'
tower over 200' to tower over 200'	2,500'
tower over 240' to tower over 240'	15,000**

*This limit may be decreased with approval by the Board of Commissioners.
(Ord. 919, passed 4-28-97)

(E) *Minimum lot areas for towers.* Different types of towers are allowed in different zoning districts. In the R/I and office districts, only monopole towers are permitted. Lattice towers are permitted in business and industrial districts where communications towers are allowed. Guyed towers are allowed only in the I-2 district. Towers requiring guy wires are discouraged due to the extensive footprint necessary for the overall installation. A tower and its related equipment (including guy wire ground connections) must be located on a separate lot or leased portion of a larger lot and must meet setback and yard requirements of the appropriate district. Where a guyed tower is requested, the applicant must provide documentation from an engineer outlining why another option is not possible. Minimum lot size for communications towers are as follows:

lattice	monopole	guyed
150' x 150'	100' x 100'	350' x 350'

These lot size requirements are waived when a stealth or concealed structure is used or when a monopole tower is attached to a non-residential building and all related equipment is located within such building.

(F) *Required landscaping.*

(1) When a communications tower (not a stealth or concealed structure) is requested, the following landscape screening requirements apply:

(a) A 100% opaque wall or fence 6' or higher around tower, related equipment structure(s), and parking, plus a minimum of 2 rows of evergreen shrubs, planted in staggered fashion, 10' on center in each row, with initial plant height of 3'; or

(b) A non-opaque fence or wall, 6' or higher

around tower, related equipment structure(s), and parking, plus a minimum of 3 rows of evergreen trees and shrubs planted in staggered fashion so that the plant materials create a 50% opaque screen, 6' high, at time of planting. Trees shall be minimum 6' tall and shrubs shall be 3' tall at time of initial planting. The combination of trees and shrubs shall be expected to create a 100% opaque screen, 6' tall, within 3 growing seasons.

The required plant material shall be located between the required fence or wall and the lot or lease lines. Vehicular entrance gate openings shall not be directly visible from any public street, or the gates shall be 100% opaque from the ground up a minimum of 6'.

(2) When a stealth application is employed which does not totally conceal wiring or related equipment at the ground level, such as an electric transmission tower, then the following landscape screening requirements shall apply:

(a) A 100% opaque wall or fence, 6' or higher around ground level equipment, structure(s), and parking, plus a minimum of 2 rows of evergreen shrubs, planted in staggered fashion, 10' on center in each row, with initial plant height of 3'; or

(b) A non-opaque fence or wall, 6' or higher around ground level equipment, structure(s), and parking, plus a minimum of 3 rows of trees and evergreen shrubs planted in staggered fashion so that the plant materials create a 50% opaque screen 3' high and 25% opaque screen 6' high at time of planting. Trees shall be minimum 6' tall and shrubs shall be 3' tall at time of initial planting. When located within the easement for electric transmission towers, landscaping plans shall also meet the utility company's requirements.

(G) *Setback from streets and property lines.* All antenna placements shall be subject to the district's setback and yard requirements, as well as the distance requirements given in Section 153.076. Where the distances given below are different, the more restrictive shall apply. Other than the Highway Overlay District, any communications tower up to 80' in height shall be set back a minimum of 100' from any public street. Any communications tower between 80' and 120' in height shall be set back a minimum of 125' from any public street. Any communications tower over 120' in height shall be set back a minimum of 175' from any public street. Where antenna are located in a stealth application, they shall be set back a minimum of 40' from any public street. In each case, distance shall be measured from edge of right-of-way

to the tower, the front of the stealth structure, the related equipment, or the guy wire ground connection, whichever is the closest.

(H) *Removal of towers, antennas, and equipment.*

Whenever a tower, antenna, or related equipment ceases to be in active operation, it shall be removed within 120 days. Where a tower or stealth structure has more than one user colocating, and one user ceases operation but is not the highest antenna location, then the remaining user shall have 120 days to reduce the height of the continuing antenna 20', except Trunked Public Safety towers.
(Ord. 919, passed 4-28-97)

A 60-day extension of this time limit may be requested to the Board of Commissioners in order to secure another user at the lower level, or to find alternative locations for the remaining user at permitted height limits. A request for extension will only be accepted and considered if it is submitted at least one month prior to the end of the 120 day initial period.

(I) *Annual notification.* During January of each calendar year, service providers shall register each antenna location within the zoning jurisdiction with the Town Clerk. The information provided shall include the location, type of tower or other support, height of tower/antenna, name/address/phone of company and contact person within company responsible for the antenna, whether or not there are colocating users at the same facility or whether there is the capability to have colocating users at the facility. This information shall be kept for reference and shall be available for public inspection. When an antenna location ceases operation, the user shall notify the Town in writing of the final date of operation, and shall include the anticipated date of removal of all antennas, towers, equipment, and other structures associated with that location. This end usage notice shall be submitted by the operating user within 30 days of the last day of operation.

(J) *Submission of zoning petition.* All antenna locations or additions, including co-locations, which require approval through a zoning action, shall submit a site plan and elevation of the proposed facility as a part of the zoning petition. The site plan shall include at a minimum: construction type of the tower/other supporting structure and related equipment storage; total antenna height; whether the tower/structure will include or allow for co-location; zoning of all adjacent lots; the nearest residential zoning in a straight-line distance when all adjacent lots are non-residential; lot boundaries or lease lines; all existing or proposed buildings and structures on the lot, or on larger parcel when a leased portion; method of screening; and vehicular access. If the antenna request is denied or restricted, a written explanation for the denial or restriction shall be given in the minutes of the Board of Commissioners meeting where such decision is made.
(Ord. 912; passed 1/27/97)

(K) So as to promote and encourage shared use/co-location of existing communications towers, the foregoing provisions of this Section 153.172 shall not apply to (I) the essentially equivalent replacement of a tower that is in existence as of January 27, 1997, or (ii) the placement of additional communications antennae and/or supporting or related equipment or equipment buildings on or in the immediate vicinity of a tower that is in existence as of January 27, 1997, provided that any additional equipment or buildings located on the ground shall be reasonably screened from view from the public roadway.
(Ord. 920, passed 6-9-97)

§ 153.173 MOTELS, MOTOR COURTS, AND HOTELS.

(A) Motels, motor courts, and hotels may be established in office districts, subject to area, yard, and height regulations of those districts. In addition no part of the property may be located within 100 feet of any residential district.

(B) Associated commercial uses may be established in office districts in conjunction with motels, motor courts, and hotels subject to the following limitations and any other applicable requirements of this chapter.

(1) Allowable commercial uses may be located only in a motel, motor court, or hotel having a minimum of 75 rental units.

(2) Gross floor area used for commercial purposes will be limited to 75 square feet per rental unit. Ballrooms, conference rooms, meeting rooms, and similar assembly facilities will not be included in determining gross floor area used for commercial purposes.

(3) Public entry to commercial facilities must be from the interior of the building. No direct public entrance from street or outside of building is permitted.

(4) No merchandise or merchandise display window may be visible from outside the building.

(5) No outside storage or display of merchandise will be permitted.

(6) No business or identification sign pertaining to commercial uses may be visible from outside the building. ('72 Code, § 3111) (Ord. 477, passed 2-8-88; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.174 RESERVED.

§ 153.175 RESERVED.

§ 153.176 RETAIL SALE OF FOOD AND BEVERAGES WITHIN CERTAIN RESIDENTIAL DEVELOPMENTS.

(A) Recreational and similar club facilities are permitted as accessory uses within multi-family projects, planned multi-family development, planned unit developments, and cluster developments when designed as an integral part of the development and intended for the use and enjoyment of the residents and their guests. These facilities may include the retail sale of food and beverages, but only in accordance with paragraph division (B) of this section. These requirements are designed to assure that the facilities are not operated as a purely commercial use open to the general public.

(B) The retail sale of food and beverages may be permitted within recreational and similar club facilities defined above, subject to the following requirements.

(1) The sale of food and beverages may be only to residents and registered guests and may not be open to the general public.

(2) An up-to-date register of all resident members must be maintained on the premises.

(3) An up-to-date register of all guests must be maintained on the premises and must include the name of the guest, the name and address of the sponsoring member, and the date of entry.

(4) Each individual member may sponsor no more than four guests at any one time and must accompany guests to the club facility.

(C) The sale of any food or beverage within the club facility must conform to all applicable laws of the state pertaining to the licensing and dispensing of food and beverages.

('72 Code, § 3114) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

§ 153.177 ROOM RENTING.

(A) Room renting is permitted in the rural, residential, and office districts, subject to the following provisions and other pertinent provisions of this chapter.

(B) Room renting is permitted in residential districts if there are no more than four roomers per dwelling unit and no separate cooking facilities for use by roomers or boarders.

(C) Room renting is permitted within the rural district and office districts if there are no more than six roomers per dwelling unit and no separate cooking facilities for use by roomers or boarders. ('72 Code, § 3115) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

§ 153.178 DRIVE-IN SERVICE WINDOWS.

(A) Drive-in service windows are permitted as an accessory part of a principal facility or operation such as a dry cleaning establishment, photo developing center, or the like, subject to the requirements set out in this section.

(B) The plan for a proposed drive-in facility must be approved by the transportation engineer. Approval will be granted if the transportation engineer determines that the drive-in window and its associated operational characteristics will not create a traffic hazard either with respect to traffic congestion, the adequacy and safety of entry and exit points, and the on-site vehicular circulation pattern. ('72 Code, § 3116) (Ord. 477, passed 2-8-88; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.179 QUARRIES.

(A) (1) Quarries may be established in I-2 Industrial Districts subject to all appropriate provisions of this chapter and to the additional requirements listed below.

(2) The quarry and all its buildings, pits, and processing equipment must be effectively screened from the view of any adjoining property in a residential district in accordance with the provisions of § 153.075.

(B) Dimensional requirements for quarries are specified below:

Required Minimum Distance from Adjacent Property That Is Zoned	Business	Industrial
To any building	100 feet	20 feet
To any crushing of rock, processing of stone, gravel, or other material	300 feet	200 feet
To any blasting	400 feet	400 feet

(Ord. 1282, passed 1-13-03)

(C) During operation of the quarry and after termination of quarrying operations at that site, the following safety features must be maintained:

(1) *Rock quarries.*

(a) From the edge of the pit, an area 20 feet wide must be maintained free of any soil cover.

(b) From a point 20 feet from the edge of the pit, the soil cover, if less than 20 feet deep, must be graded back to a slope of one foot vertical or less, to one foot horizontal from the rock level to the top of the soil cover.

(c) If the soil cover to be stripped away exceeds 20 feet in depth, a ditch eight feet wide and three feet deep at least ten feet back from the edge of the cut may be substituted for the back sloping. If the pit has reached its maximum expansion in any direction, however, the permanent fence, as described in paragraph division (D) of this section, in connection with termination of quarrying operations, will suffice instead of the backsloping or ditch in that particular area.

(d) All dense underbrush must be removed from the soil cover for a distance of 100 feet from the edge of the pit.

(2) *Gravel quarries and sand quarries.* When the pit exceeds a depth of 20 feet from the surface of the ground, all dense underbrush must be removed from the soil cover for a distance of 100 feet from the edge of the pit.

(D) Upon termination of quarry operations at any pit that exceeds a depth of 20 feet from the surface of the ground, either the pit must be backfilled to the slope of one foot vertical, or less, to one foot horizontal from the bottom of the pit to the surface of the ground, or an unclimbable fence must be erected and maintained around the pit. The fence must be a minimum of six feet high and constructed of wire mesh in rectangular shapes, and the sizes of the rectangles may not exceed two inches by four inches. ('72 Code, § 3117) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.180 FARM-TYPE ENTERPRISES.

(A) When not a part of a bona fide farm as defined by this chapter, farm-type enterprises, such as dairies, plant nurseries, green houses, fruit or vegetable packing sheds, the sale of fruit, vegetables, and similar farm products, tobacco storage, and similar uses are permitted within the Rural District and Industrial Districts subject to the following provisions and other pertinent provisions of this chapter.

(B) Any farm-type building or structure must be located to the rear of any established setback, must be at least 100 feet from any existing residence on adjacent tracts of land in the Rural District or residential districts, and must be at least 50 feet from any exterior property line adjacent to tracts of land in the Rural District or residential districts. Temporary stands for the sale of fruit, vegetables, and similar farm products may be located at the front property line.

(C) Where a lot line adjoins a lot in districts other than the Rural District or any residential district, the minimum required yard (rear, side, and/or front) for any farm-type building or structure will be the same as that required for single-family dwellings in the Rural District. ('72 Code, § 3118) (Ord. 477, passed 2-8-88; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.181 CHILD DAY CARE HOMES AND CHILD DAY CARE FACILITIES.

(A) *Child day care homes.* Child day care homes may be established in single-family residential, multi-family residential, residential/institutional, office and business districts except B-D and HUC subject to the requirements listed below and to all other applicable requirements of this chapter.

(1) Child day care homes are required to be registered with the state in accordance with G.S. § 110-101.

(2) An off-street drop-off/pick-up-area must be provided. A residential driveway is acceptable for this purpose.

(3) No structural or decorative alteration that will affect the single-family character of an existing residential structure or be incompatible with surrounding residences is permitted.

(4) At least 100 square feet of outdoor play space per child must be provided.

(5) Outdoor space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback.

(6) Yard and height requirements will be the same as those required for structures in the district in which it is located.

(B) *Child day care facilities.* Child day care facilities which meet all applicable license requirements may be established as a use in multi-family residential, residential institutional, office and business districts, except B-D and HUC, subject to the requirements listed below and all other applicable requirements of this chapter.

(1) The minimum requirements for fences, yards and height for child day care centers will be the same as those for child day care homes as set out in divisions (A)(4) through (6) of this section.

(2) The minimum lot area required in each district to establish a child day care facility will be the same as the minimum lot requirements for each district. In the B-1 and B-2 districts where no minimum lot area is established the minimum lot area required to establish a child day care facility shall be 9,000 square feet.

(3) For child day care facilities licensed for six to 45 children, there shall be a minimum of 2,250 square feet of outdoor play area. For child day care facilities licensed for 46 or more children, there shall be a minimum of 100 square feet of outdoor play area for at least one-half of the total

number of children for which the center is licensed. Maximum number of children allowed on the outdoor play area at any one time shall be one per 100 square feet of actual outdoor play area.

(Ord. 477, passed 2-8-88; Am. Ord. 869, passed 7-14-95; Am. Ord. 877, passed 5-9-94; Am. Ord. 887, passed 3-25-96) Penalty, see § 153.999

§ 153.182 NURSING HOMES, REST HOMES, AND HOMES FOR AGED.

(A) Nursing homes, rest homes, and homes for the aged may be established as a use in the residential/institutional, office and business districts, except the BD and HUC, in accordance with the requirements below and all other applicable requirements of this chapter.

(B) The minimum lot area required for a nursing home, rest home, or home for the aged is set out below:

(1) For districts O-9, R/I, B-1, B-2, and B-3 the minimum lot area for the first five residents shall be 9,000 square feet, and the minimum additional lot area for each additional five residents or fraction of five shall be 2,500 square feet. The minimum lot area in the R/I district must meet the requirements in the tables at § 153.056.

(2) For district O-15, the minimum lot area for the first five residents shall be 15,000 square feet, and the minimum additional lot area for each additional five residents or fraction of five shall be 3,500 square feet.

('72 Code, § 3122) (Ord. 477, passed 2-8-88; Am. Ord. 600, passed 7-10-89; Am. Ord. 613, passed 12-11-89; Am. Ord. 775, passed 4-12-93; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.183 ELECTRIC AND GAS SUBSTATIONS, SEWER TREATMENT PLANTS AND OTHER SIMILAR UTILITY STRUCTURES.

(A) Electric and gas substations may be established in multi-family, office, business (except HUC) and industrial districts in conformance with the requirements listed below.

(1) Lots must conform to minimum area and yard requirements of the district in which they are located.

(2) The design of buildings, structures, and facilities on the site should conform as closely as possible to the character of the area or neighborhood, so that these facilities or structures will not adversely affect the safe and comfortable enjoyment or value of nearby properties.

(3) Unclimbable fences or comparable safety devices must be installed and maintained in order to make the facility inaccessible to the public.

(4) Landscaping must be provided in accordance with the provisions in § 153.075.

(B) Sewage treatment plants, control houses, pump and lift stations, and similar uses may be established in any single-family or multi-family districts or industrial district in accordance with the area, height, and yard requirements of the district and the standards listed below.

(1) Unclimbable fences must be installed and maintained around such a use so that it will be inaccessible to the public.

(2) Landscaping must be provided in accordance with the provisions in § 153.075.

(3) The plant and all attendant structures and other facilities must be designed, constructed, and operated to have the least negative impacts on the health, safety, and general welfare of the community. ('72 Code, § 3123) (Ord. 477, passed 2-8-88; Am. Ord. 792, passed 11-8-93; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.184 TRANSIT STOP SHELTERS.

Transit stop shelters may be constructed and maintained by the town in any district as allowed elsewhere in this chapter, except single-family residential districts in conformance with the standards listed below.

(A) Shelters may be located in any street right-of-way or within the required setback of property which adjoins a street. They may not be within 35 feet of an intersection or located so that they might obstruct the vision of drivers on the street. Only governmental signs are permitted in association with a transit stop shelter.

(B) A building permit will be issued for a transit stop shelter only after the following conditions are met:

(1) The plan has been approved by the Board of Commissioners regarding the location and integration of the shelter with the surrounding properties and its impact on nearby residential areas.

(2) A transit stop shelter may be removed if the Board of Commissioners determines that it no longer serves the best interests of the public. ('72 Code, § 3125) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999.

§ 153.185 VETERINARY CLINICS, VETERINARY HOSPITALS, COMMERCIAL KENNELS, AND ANIMAL GROOMING.

(A) Veterinary clinics are allowed in the B-2 district subject to the area, yard and height regulations of the district,

any other applicable requirements and the ordinance and the following limitations:

(1) It must be within a completely enclosed building with no outside storage or animal areas. Outside storage of materials, feed or waste shall not be permitted.

(2) The boarding of animals shall be limited to occasional overnight observation, emergency and/or surgery recovery and those animals with special needs (medical or geriatric care).

(3) Provisions for adequate containerized solid waste disposal shall be assured with removal no less frequently than one time a week. Any form of disposal which allows odor or fumes shall be in violation of this section.

(4) All animals must be treated, washed and fed within an enclosed building with the exception of single day, special events (dog flea dips, etc.).

(5) The drainage of all liquid by-products from a veterinary clinic shall be discharged by a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

(6) All building plans submitted for a veterinary clinic, whether for a new or existing structure, must be accompanied by a certification by a registered architect or acoustical engineer that no sounds emitted through the outside walls or roof of the building will exceed 45 decibels.

(B) Veterinary hospitals are allowed in the B-2, B-D, and Industrial Districts subject to the area, yard and height requirements of the ordinance and the following limitations.

(1) Provisions for adequate containerized solid waste disposal shall be assured with removal no less frequently than one time a week. Any form of disposal which allows odor or fumes shall be in violation of this section.

(2) All animals must be treated, washed and fed within an enclosed building with the exception of single day, special events (dog flea dips, etc.).

(3) The drainage of all liquid by-products from a veterinary hospital shall be discharged into a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

(4) All building plans submitted for a veterinary hospital, whether for a new or existing structure must be accompanied by a certification by a registered architect or acoustical engineer that no sounds emitted through the outside walls or roof of the building will exceed 45 decibels.

(C) Commercial kennels are allowed in the Industrial districts subject to the area, yard and height regulations of the

district, any other applicable requirements of the ordinance and the following limitations:

(1) Outside storage of materials, feed, or waste shall not be permitted.

(2) Provisions for adequate containerized solid waste disposal shall be assured with removal no less frequently than one time a week. Any form of disposal which allows odor or fumes shall be in violation of this section.

(3) All animals must be treated, washed and fed within an enclosed building with the exception of single day, special events (dog flea dips, etc.).

(4) The drainage of all liquid by-products shall be discharged into a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

(D) Animal grooming may be done either in a veterinary clinic or hospital, or in an establishment existing solely for the purposes of animal grooming. When a separate establishment it may be located in the B-1, B-2, B-D and Industrial districts, subject to the area, yard and height regulations of the district, any other applicable requirements of the ordinance and the following limitations:

(1) It must be within a completely enclosed building with no outside storage or animal areas. Outside storage of materials, feed or waste shall not be permitted.

(2) The boarding of animals shall not be permitted.

(3) Provisions for adequate containerized solid waste disposal shall be assured with removal no less frequently than one time a week. Any form of disposal which allows odor or fumes shall be in violation of this ordinance.

(4) All animals must be treated, washed and fed within an enclosed building with the exception of single day, special events (dog flea dips, etc.).

(5) The drainage of all liquid by-products from an animal grooming establishment shall be discharged into a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

(6) All building plans submitted for an animal grooming establishment, whether for a new or existing structure, must be accompanied by a certification by a registered architect or acoustical engineer that no sounds emitted through the outside walls or roof of the building will exceed 45 decibels.

('72 Code, § 3127) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999

§ 153.186 GOLF COURSES, COUNTRY CLUBS, SWIMMING CLUBS, COMMUNITY RECREATION CENTERS, AND TENNIS CLUBS.

Golf courses, country clubs, swimming clubs, community recreation centers and tennis or racket clubs are permitted within certain districts (see each district's list of permitted uses) subject to the following requirements. When located in residential districts, any enclosed buildings must meet the setback and yard requirements as specified in § 153.053. Structures associated with open air uses or swimming pools must be located at least 100 feet from lots in any residential district. Otherwise, structures, buildings, swimming pools and tennis courts must be located in accordance with the requirements for principal uses for the district in which located. Any lighting of parking lots, swimming pools, ball courts, play fields, or similar amenities shall be shielded so as to cast no glare upon adjacent properties and streets. Lighting of these amenities shall not remain lighted after 10:00 p.m. or be turned on before 8:00 a.m. ('72 Code, § 3128) (Ord. 477, passed 2-8-88; Am. Ord. 781, passed 7-12-93) Penalty, see § 153.999

§ 153.187 PRIVATE STABLES.

Structures, pasture areas, corrals, and other enclosed areas for the keeping of horses shall be permitted in the single-family and multi-family districts, in accordance with the following requirements:

(A) Minimum lot size shall be one acre.

(B) Maximum number of horses is one horse per acre.

(C) All buildings and structures for the keeping and maintenance of animals, equipment, or manure, and all manure piles, pits, or bins shall be located at least 100 feet from any lot line.

(D) There shall be no outdoor storage of equipment related to training or maintenance of horses.

(E) No such use shall be operated for commercial purposes.

(F) Riding stables within an approved Equestrian-Oriented Subdivision are governed by the requirements of § 153.094.

(G) All stables and riding areas must be maintained according to the requirements and standards of the County Health Department.

('72 Code, § 3129) (Ord. 477, passed 2-8-88; Am. Ord. 752, passed 8-3-92) Penalty, see § 153.999

§ 153.188 OUTDOOR AMUSEMENTS.

Outdoor commercial amusements, such as miniature golf, rides, slides, training and sports practice related uses that have no or limited mechanical devices which may be detrimental to residential areas, and similar commercial enterprises are permitted in the B-2 and Industrial Districts. Lighting of buildings, parking areas, accessory uses, fairways, and grounds shall be shielded so as to cast no glare upon adjacent properties and streets. Except as provided for in this section, all uses, buildings, and structures must be at least 200 feet from any residential district(s).

If the property upon which such use is located is adjacent to a residentially zoned or residentially used parcel, lighting shall not remain lighted after 10:00 p.m. or before 8:00 a.m.

The fairway portions of a driving range or golf school, yardage markers, distance flag markers, bunkers, or fairways, where such improvements in such areas are limited solely to the passage of, or the placement of, golf balls within such area, or the collection of golf balls by hand or by mechanical devices, must be located at least 50 feet from any residentially zoned or residentially used parcel. Driving tees, putting, greens, practice sand traps, or other similar accessory uses shall remain subject to the 100 foot minimum distance set forth above from any residential district(s). Where the 50 foot separation distance applies, the entire 50 foot width shall remain undisturbed, where wooded, or be planted with trees and shrubs sufficient to create a 90% opaque buffer, at least 6 feet high, within four growing seasons. The activities associated with the use of the permitted golf uses shall not occur or be permitted after 10:00 p.m. or before 8:00 a.m. of any day.

('72 Code, § 3132) (Ord. 477, passed 2-8-88; Am. Ord. 877, passed 5-9-94) (Ord. 1281, passed 5-13-02) Penalty, see § 153.999

§ 153.189 CEMETERIES.

Private or public cemeteries are permitted in some districts in accordance with the requirements listed below.

(A) Tombstones, crypts, monuments, and mausoleums must be located at least 25 feet from any side or rear lot line which adjoins lots in a residential district and at least ten feet from any side or rear lot line which adjoins lots in nonresidential districts. In any case, they must be at least 40 feet from any street right-of-way.

(B) Buildings for the maintenance, management, rent, or sale of cemetery lots must be located at least 100 feet from any lot lines which adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located.

('72 Code, § 24-3135) (Ord. 477, passed 2-8-88) Penalty, see § 153.999

§ 153.190 DEMOLITION DISPOSAL SITES.

(A) On-site demolition disposal sites are permitted in residential zoning districts and the RU district subject to the following requirements:

(1) Each on-site demolition disposal site shall be required to obtain a disposal site permit from the Mecklenburg County Department of Environmental Protection (MCDEP) prior to obtaining zoning clearance to begin use of the disposal site.

(2) All requirements of MCDEP shall be followed, including adequate notice to MCDEP for inspections, certification of disposal area being at least the minimum depth above the seasonal high water table, temporary and permanent erosion control, proof of adequate separation from any residential or community wells, and proper compaction/final covering of disposal site following inspection.

(3) In addition to MCDEP requirements, on-site disposal locations shall be a minimum of 25 feet from any existing residential structure, or to a required front, side or rear building setback or yard line on a lot being created at the time of, or following the closure of the disposal site.

(B) Demolition disposal sites, receiving fill materials from either on- or off-site development, are permitted in office districts, business districts (except HUC), and the industrial districts.

(1) Each demolition disposal site shall be required to obtain a disposal site permit from the Mecklenburg County Department of Environmental Protection (MCDEP) prior to obtaining zoning clearance to begin use of the disposal site.

(2) All requirements of MCDEP and the state shall be followed, including adequate notice of MCDEP for inspection, certification of disposal area being at least the minimum depth above the seasonal high water table, temporary and permanent erosion control, proof of adequate separation from any residential or community wells, and proper compaction/final covering of disposal site following inspection.

(3) Demolition disposal sites shall be a minimum of 100 feet from any residential zone.

(4) Any parcel or lot which contains any part of any such disposal site must have notification of its existence and extent of the site recorded as a part of the deed for the lot or parcel, even if no subdivision is required for the sale or development of the property.

(5) No filling of any type will occur in any portion of a regulatory flood plain, including both the floodway and the floodway fringe area.

(6) A demolition disposal site shall be an accessory use only and shall not be in use for more than 24 months.

(Ord. 477, passed 2-8-88; Am. Ord. 753, passed 9-14-92; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999

§ 153.191 TEMPORARY USES.

(A) Temporary uses may be allowed in the Single-Family and Multi-Family Residential districts, the Residential/Institutional district, the Office districts, B-1, B-2, B-3, B-D, HUC, I-1, and I-2 districts. The following provisions will govern the establishment of any such uses.

(B) *Definition.* Each person who conducts business within the town's zoning jurisdiction is subject to this chapter if the business does not meet the zoning and building code criteria set forth by the Charlotte-Mecklenburg Building Standards for a permanent business designation, and is not a short-term temporary use as established in division (G) of this section. A person **CONDUCTS BUSINESS** when he engages in business within the town's zoning jurisdiction if he maintains a business location in the town or its extraterritorial jurisdiction, or if, either personally or through agents, he:

(1) Solicits business within the Town's zoning jurisdiction, or

(2) Picks up or delivers goods or delivers service within the town's zoning jurisdiction.

The Zoning Administrator shall grant permanent business designation, which shall include: a permanent structure with appropriate restroom facilities, able to receive a final Certificate of Occupancy; designated parking spaces including handicap-accessible spaces as required by Building Code; driveway permit; required on-site landscaping; adequate garbage/dumpster location and screening; loading/service areas, where needed; and any other elements as the Zoning Administrator may determine to be necessary.

A person seeking a permanent business designation while operating under a temporary use permit must obtain this designation within the stated 45-day time period in order to avoid any possible temporary use violations and subsequent enforcement by the Zoning Administrator or the Town's Code Enforcement Officer. (Ord. 1127, passed 7-10-00)

(C) A temporary use which is allowed as a permanent use in the district in which it is situated must meet the following requirements:

(1) Temporary uses shall conform to the required setback and yard requirements of the district in which they are located.

(2) Temporary uses shall apply for a temporary use permit before start of any operation. A temporary use

permit shall be valid for 45 days and cannot be renewed for any time extension. The 45-day time period will begin as of the date of issuance of the temporary use permit.

(3) A valid temporary use permit must be displayed on-site as long as the temporary use is in operation.

(4) After the temporary use is concluded, the property shall not be used for another temporary use for a period of one year from the issue date of the temporary use permit. In the case where a property is occupied by a use that constitutes a temporary use without a valid temporary use permit, and five days after a warning of violation is delivered it still remains on-site without a valid permit, then that property shall not be eligible for another temporary use for a period of 24 months from the issue date of the last valid temporary use permit. (Ord. 127, passed 7-10-00)

(5) One identification sign will be allowed for the temporary use permit, up to 16 square feet maximum. The sign may be either freestanding or attached to a structure, but no portion shall extend into the right-of-way, or into a sight triangle at intersections or driveway entrances. Such sign will be allowed for a temporary use regardless of other existing permanent signs on the same property.

(6) Hard surface parking as may be required elsewhere in this chapter shall not be required for a temporary use, although the minimum number of parking spaces and adequate on-site vehicular maneuvering space shall be required the same as for the use on a permanent location.

(D) *Exceptions.* The following business operations are exempt from the provisions stated in this chapter:

(1) Farmers' market. A farmers' market is defined as an open space or building where agricultural products, excluding livestock, are shown for sale, and is allowed only within the HUC zoning district.

(2) Pushcart vendors. A pushcart is defined as a vehicle which meets the following criteria:

(a) Nonmotorized or horse-drawn;

(b) A vehicle which is designed with and has wheels for easy maneuverability by humans rather than a concession vehicle which is designed to be towed by a motorized vehicle.

(3) Pushcart vendors are allowed only in the HUC zoning district. Pushcart food vendors are subject to the regulations set forth by the Charlotte-Mecklenburg Environmental Health Department. One accessory structure item, such as a freestanding table or display rack will be allowed in addition to the pushcart if it is clearly necessary in order to conduct the business. Business can only be conducted from pushcarts; business may not be conducted

from tents, vehicles, concession trailers, or freestanding items (such as tables, merchandise display racks or newsstands and the like).

(E) *Warning of violations; authority to issue.* The Zoning Administrator and the Code Enforcement Officer are empowered to issue warnings of violations to any person if there is a reasonable cause to believe that a person has violated any provision of this section. These warnings of violation may be delivered in person to the violator, or, if the violator cannot be readily found, the warning of violation may be mailed to the last known address of the violator, or mailed or hand-delivered to another individual participating with the violator in the business on the site. Warnings of violations may be issued for the following:

(1) Conducting a temporary use without a temporary use permit. A temporary use permit must be obtained within five calendar days of warning issue date.

(2) Conducting a temporary use on a property that is ineligible for a temporary use as required by division (C)(4) of this section. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

(3) Failure to cease business activities and to remove all business-related material from the property within the 45-day time limit specified in division (C)(2) of this section. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

(F) Section 153.191(A) through (C) may be enforced in any one or more of the following ways as prescribed by law:

(1) *Citation and civil penalty.* A civil citation in the amount of \$100 may be levied against any person who violates any provision of § 153.191(A) through (C) and who has been issued a warning of violation and has not met the specified compliance. Additional citations in the amount of \$200 may be issued for the second day of violation and an additional citation in the amount of \$300 may be issued for a third day of violation and any subsequent days thereafter the violation continues to exist. Each and every day during which the violation continues shall be a separate and distinct offense.

(2) *Violation a misdemeanor.* If a violator fails to comply with the warning of violation, the Zoning Administrator or Code Enforcement Officer may have a complaint entered against the violator and have a criminal summons issued. Upon conviction, the violator shall be subject to criminal penalty up to \$500 and/or up to 30 days

in jail as the courts may allow.

(G) A short-term temporary use which is of a civic or nonprofit nature, or a festival of local, national, or historic significance that will be of seven days or less duration shall meet the following requirements:

(1) Short-term temporary uses shall conform to the minimum side and rear yard requirements of the district in which they are located, but may be located within the front setback when the Chief of Police determines that the public safety will not be adversely affected.

(2) Short-term temporary uses shall apply for a temporary use permit before start of any operation. A short-term temporary use permit shall be valid for seven days, or a lesser time frame as specified by the applicant at the time the permit is requested. The assigned time period will begin as of the date of issuance of the temporary use permit, or on the date specified by the applicant. A short-term temporary use permit cannot be renewed for any time extension.

(3) A valid short-term temporary use permit must be displayed on-site as long as the use is in operation.

(4) Parking, screening, buffers, and similar requirements as may be required elsewhere in this chapter shall not be required for a short-term temporary use. (Ord. 477, passed 2-8-88; Am. Ord. 824, passed 6-13-94)

§ 153.192 COMMERCIAL RIDING STABLE.

Structures, pastures, corrals, and other enclosed areas for the keeping of horses shall be permitted in the Residential/Institutional district in accordance with the following requirements:

(A) All buildings and structures for the keeping and maintenance of animals, equipment, or manure, and all manure piles, pits or bins shall be located at least 100 feet from any lot line.

(B) All trails shall be a minimum of 20 feet from any property line.

(C) All stables and riding areas must be maintained according to the standards and requirements of the Mecklenburg County Health Department.

(D) Lighting of training fields, trails, and parking lots shall be shielded so as to cast no glare upon adjacent properties and streets, and shall not remain lighted after 10:00 p.m. or be turned on before 8:00 a.m. (Ord. 477, passed 2-8-88; Am. Ord. 781, passed 7-12-93)

§ 153.193 OUTDOOR SALES IN CONJUNCTION WITH A PERMANENT BUSINESS.

Outdoor sales of goods in conjunction with a permanent business is allowed in the B-1, B-1SCD, B-2, B-3, BD, HUC, I-1, and I-2 districts when the following criteria are met:

(A) All outdoor display and sales shall be operated and maintained as a part of, under the same ownership as, and on the same parcel of land as the principal use which includes a retail element. Outdoor sales shall not exceed the normal business hours of the principal establishment.

(B) There must be a clearly defined physical access way from the outdoor sales area to a customer entrance of the principal use.

(C) All sight triangles, required parking spaces, driveway accesses, internal driveway aisles and vehicular circulation paths, pedestrian walks must remain unobstructed by outdoor display, landscaping, signs, vehicular parking, or any other items that relate to the outdoor sales activity.

(D) Where outdoor sales take place on a multi-tenant property, the outdoor sales area shall be physically located only adjacent to the business to which it is connected, and shall not block access to any other tenant on the multi-tenant parcel.

(E) No goods, signs, or other items that are a part of the outdoor sales activity shall be attached to the principal building's wall surface.

(F) The occasional or intermittent sale of goods from a semi-truck trailer without a cab, or from a temporary greenhouse or tent, for a short-term sale shall not exceed 120 days during a calendar year. Any semi-truck, temporary greenhouse, or tent used as a part of outdoor sales shall not be located within any required front setback, any required parking, any driveway or any internal vehicular or pedestrian circulation areas. (Ord. No. 1524, passed 12-11-06)

§153.194 LIVE WORK UNITS.

(A) Live/work units are permitted only in the Downtown Overlay District where the underlying district classification is R-VS, office, business, or industrial. Live/work units in the Downtown Overlay shall not be permitted in R-20, R-15, R-12, or R-9 districts. In the allowed districts, live/work units are subject to the following requirements:

(1) At least one member of the household residing in the residential portion of the live/work unit shall be employed in the nonresidential portion of the unit.

(2) The work area use shall be located on the first (ground) floor only and shall occupy less than 50% of the total area of the live/work unit.

(3) Up to two nonresident employees may be

allowed in the work portion of the live/work unit when additional parking spaces are provided as listed in Section 153.117.

(4) Live/work units shall be designed and constructed to meet all applicable building codes.

(5) Live/work units shall not exceed 3000 square feet in total area. The residential and nonresidential portions may be side-by-side or stacked, and are not required to have solid wall separation between them.

(6) Allowed uses within the work portion of a live/work unit shall be limited to: beauty or barber shops; business and professional offices; civic or social service organizations; studios for gymnasts, artists, designers, photographers, musicians or sculptors; dentist, optician, or doctor offices/clinics; child day care; florist shops; and bakeries. Sale of merchandise shall be an incidental part of any business use.

(7) The business portion of a live/work unit may have one attached sign not to exceed nine (9) square feet in sign area within six (6) lineal feet of each public entrance to the business.

(Ord. 1237, passed 1-14-02)

§153.195 CONTINUING CARE RETIREMENT COMMUNITIES

(A) Continuing care retirement communities may be established as a use in the Residential/Institutional district in accordance with the requirements set forth below and as outlined in Table 1 at the end of this section.

(1) A continuing care retirement community may include up to 20 independent living units per gross acre and up to 5 assisted living units per gross acre along with skilled nursing facilities, community buildings and ancillary services.

(2) The lot upon which a continuing care retirement community is located must have frontage upon a major or minor thoroughfare and the main entrance must be from this major or minor thoroughfare.

(3) Signage shall comply with the provisions of §153.140 through §153.155

(4) The site shall conform to the landscaping and screening requirements of §153.075.

(5) All building forming a part of a continuing care retirement community site shall be compatible in appearance and quality through the use of similar building materials, colors, architectural features and styles.

(6) The total floor area devoted to accessory uses

shall not exceed 20% of the total floor area on the site. The following uses shall be permitted as accessory uses in any structure to so long as such uses are ancillary to the continuing care retirement community's use (i.e. meaning they may be used by the residents, employees, business invitees, and guests of the facility but shall not be open to or marketed for use by those outside the community).

(a) Medical and dental offices and medical and dental laboratories.

(b) Health and allied services.

(c) Healthcare facilities, medical offices and ancillary services.

(d) Photographic studios, including commercial photography

(e) Health club, fitness center, physical therapy and spas

(f) Banks

(g) Retirement community management and maintenance facilities and marketing centers

(h) Eating and drinking places, pubs and taverns, retail bakeries, cafeteria services, candy, nut and confectionary stores and miscellaneous food stores

(i) Educational services, libraries, book and stationary stores, news dealers and newsstands

(j) Men's and women's clothing and/or accessory stores, shoe stores, miscellaneous apparel and accessory stores

(k) Miscellaneous general merchandise stores, pharmacies, florists, gift, novelty, and souvenir shops, and camera and photographic supply stores.

(l) Pressing, alterations, garment repair and custom tailors

(m) Barbershops and beauty shops

(n) Indoor and outdoor swimming pools, putting greens, parks and open space, bowling, billiards and pool

(o) Places of worship

(p) Motion picture theaters, dance halls and studios, dance schools, theaters and auditoriums

(q) Radio and television production and broadcasting facilities

(r) Woodshops and arts and crafts studios

(B) Streets located within the interior of a continuing care retirement community may be either public or private. In the event the community is accessed by private streets, such access may be limited by means of a gate or other device subject to the determination by the Matthews Fire Chief that the access gate or other device has been designed and constructed in accordance with fire safety and emergency accessibility response standards adopted by the Town of Matthews, if any are then in effect; or if none, then with those response standards adopted by Mecklenburg County, North Carolina. In addition, all private streets shall be designed and constructed in accordance with the standards for private streets adopted by the Town of Matthews if any are then in effect; and, if none, then with those standards for private streets adopted by Mecklenburg County, North Carolina.

Table I: Continuing Care Retirement Communities Development Requirements

The following development requirements are established for Continuing Care Retirement Communities in lieu of the general standards applicable to uses in the Residential/Institutional District established under §153.056(D).

Minimum lot area	5 Acres
Minimum Side Yard	50 Feet
Minimum Setback	50 Feet
Minimum Rear Yard	50 Feet
Minimum unobstructed open space (% of site)	50%
Maximum Height	60 Feet

(Ord. No. 1550, passed 3-12-07)